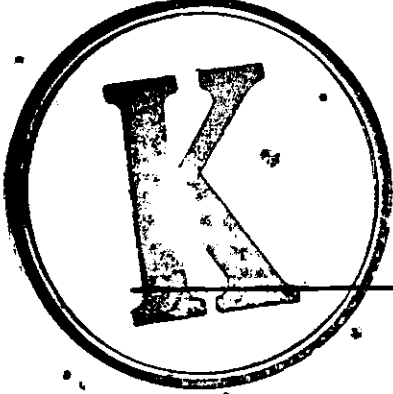


1947.

File No. O. Rent Restriction

47



Legal

DEPARTMENT

A

BRANCH

Subject:—

Ms. 1715

Opinions under the Bombay

PHE

Rent Restriction Act, 1939.

∴ File No. O. Rent Restriction/47

Std. Sectt. Slip 24 B.

398-A.

C O N T E N T S.

Legal Department File No. O. Rent Restriction /1947.

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Opinions Under the Bombay Rent Restriction Act, 1939.

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|----|-----------------------|---|------|
| 1. | O.No. 6125 / 12/6/47 | Question whether the Kanara Goud Sarawat Co-operative Housing Society is competent to do away with the rebate system without transgressing the provisions of the Act. | 1-2 |
| 2. | O.No. 6477 / 23-6-47, | Question regarding Mr. Khair's eviction from the Curator's quarters in the Engineering College, Poona, | 3-4. |

RS
11/5

Office of the R.L.A.

In 1925 the Kanara Goud Saraswat Co-operative Housing Society took a loan of Rs. 3,12,500~~0~~ from the Government. The Society did not prosper as well as was expected. In 1945 Government accepted an amount of Rs. 2,25,000 in full settlement of loan advanced to the Society including interest and the balance of Rs. 1,39,000 had to be written off. This amount of Rs. 2,25,000 was borrowed by the Society from the Provincial Co-operative Bank Ltd., against a mortgage of the assets of the Society. The Society then appointed a sub-committee to devise plans for the repayment of the debt due to the bank. One of the proposals recommended by the committee was the complete withdrawal of a rebate in rent which the Society allowed to its tenants. It appears that at a time when most of the houses were lying vacant, the society, with a view to attracting new tenants, started a system of giving a rebate to those who made prompt ~~to~~ payment of rent before a given date. These rebates now amount to as much as 30 per cent. of the rent. The Society however apprehended that the abolition of the rebate system would be resisted by the tenants by taking advantage under the Rent Restriction Act, 1939. They therefore made a representation to Government to give to the Society the benefit of the proviso to section 2 of the Act by exempting the Society's building from the operation of the Act. After a detailed consideration of the Society's request, Government decided that it could not be granted and by Government letter (R.D.), No. 2506-J/45 of 15-4-1947, the Chairman of the Society was informed accordingly. The papers have now been referred to the R.L.A. for opinion on the question whether the Society is competent to do away with the rebate system without transgressing the provisions of the Rent Restriction Act.

It is clear from the letters of the Chairman of the Society dated the 11th February 1946 and 29th June 1946 that the rebate was given to those tenants who made prompt payment of rent before a given date. From the copy of the letter No. B.9/2 of 3rd October

1946 from the ~~xxx~~ Deputy Registrar, Co-operative Societies
by separate letter informing him that rebate would be given
it appears, each tenant was given for regular payment of
rent. There is nothing on record to indicate that the
Society had reserved to itself the power to withdraw at
any time the concession of rebate. It was therefore one of
the terms of the tenancy that so long as the tenant paid the rent
regularly as agreed upon the Society was bound to allow him
a rebate. The rebate could be disallowed only on the tenant's
default in the regular payment of rent. The withdrawal of the
rebate on any other ground save the tenant's default, would be
tantamount to an alteration of the terms of the tenancy to the
detriment of the tenant, within the meaning of section 7 of the
Rent Restriction Act. Consequently, the Society would be
incompetent to do away with the system of rebate without infringing
the provisions of section 5 read with section 7 of the Rent
Restriction Act.

O.C.

Id/- P.M.L.

11/6
Remembrancer of Legal Affairs.

U.R. to R.D. No. 6125, dated the 13th June 1947.

JPE. 7/5/56. 4c.

R.I. No. 6912
10/6/47

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Submitted.

It appears that Mr. M.B.Khaire, Rationing Officer, Talegaon Dabhade under suspension, has been occupying the Assistant Curator's Bungalow, in College of Engineering, Poona since September 1942, when he was a Rationing Inspector at Poona. The principal of the College of Engineering has represented to Government that these quarters are required for the use of his staff. Thereupon under the orders of Government the Executive Engineer, Poona Division, served Mr. Khaire with a notice on the 10th March 1947 asking him to hand over vacant possession of the ⁿbuglow to the sub-Divisional Officer on 15-4-1947. Mr. Khaire it appears has not so far complied with the notice presumably in view of the Rent Restriction Act. The papers are referred to the R.L.A. for advice as to the procedure to be adopted for expeditious eviction of Mr. Khaire.

Reply may be:-

Since Mr. Khaire cannot be evicted save by due process of law, a ^{suit}~~case~~ will have to be filed for his ejectment.

IA/- R.T.R.
20/6

U.R. to P.W.D. No. 6477, dated 23-6-1947.

JPE 7/5/56.4c.